IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 230 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX - Applicant(s)
Versus
GUJARAT SHIP TRADING CORPN. - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(s) : 1,
SERVED BY RPAD - (N) for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 16/11/2005

ORAL JUDGMENT

(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1 The Income Tax Appellate Tribunal, Ahmedabad Bench 'A' has referred the following question under section 256(1) of the Income Tax Act,1961 (the Act).

> "Whether, the appellate tribunal is right in law and on facts, in directing the A.O. to allow a relief u/s 80 HHA and 80I considering the assessee as being engaged in manufacturing activity ?"

2 The Assessment Year is 1986-87 and the relevant accounting period is the year ended on

30/6/1985.

3 Heard Mrs.M.M.Bhatt, learned Standing Counsel for the applicant-revenue. Though served, there is no appearance on behalf of the respondent,assessee.

4. Mrs.Bhatt has drawn attention to paragraph No.3 of the statement of facts to point out that the Tribunal had referred an identical question for the opinion of this Court in the assessee's own case in relation to Assessment Year 1985-86, being Income Tax Reference No.177 of 1992.It is pointed out that the aforesaid reference has been decided by an order dated 22/1/2004, whereby following an earlier decision of this Court rendered in the case of *Commissioner of Income Tax v/s. Vijay Ship Breaking Corporation (2003) 261 ITR 113,* the question referred has been answered in favour of the Revenue.

5 In the circumstances, for the reasons stated in the order dated 22/1/2004 in Income Tax Reference No.177 of 1992, the question referred to this Court is answered in the negative i.e. in favour of the revenue and against the assessee. The reference stands disposed of accordingly.

Sd/- Sd/-
(D.A.Mehta, J) (H.N.Devani, J)

m.m.bhatt